

FILED

11/15/2023

Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
November 13, 2023

IN RE: CONSERVATORSHIP OF JESSICA ABEYTA

Appeal from the Probate Court for Davidson County
No. 21P1345 Andra J. Hedrick, Judge

No. M2023-00972-COA-R3-CV

This is an appeal from a final judgment in a conservatorship case. Because the appellant did not file her notice of appeal with the clerk of the appellate court within thirty days after entry of the final judgment as required by Tennessee Rule of Appellate Procedure 4(a), we dismiss the appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

FRANK G. CLEMENT, JR., P.J., M.S., ANDY D. BENNETT, and JEFFREY USMAN, JJ.

Jessica Abeyta, Nashville, Tennessee, pro se.

April Lynn Harris Jackson, Hermitage, Tennessee, for the appellee, Carol Abeyta.

Barbara Morris Zoccola, Germantown, Tennessee, for the appellee, Conservatorship of Jessica Abeyta.

MEMORANDUM OPINION¹

Jessica Abeyta has filed a notice of appeal from an Order Amending Conservatorship, Changing Special Needs Trustee and Addressing Attorney's Fees entered on May 31, 2023. Tennessee Rule of Appellate Procedure 4(a) requires that a notice of

¹A case designated as a memorandum opinion "shall not be published, and shall not be cited or relied on for any reason in any unrelated case." Tenn. Ct. App. R. 10.

appeal be filed with the clerk of the appellate court within thirty days after entry of the judgment appealed. Ms. Abeyta did not file her notice of appeal until July 3, 2023, thirty-three days after entry of the May 31, 2023 order. After reviewing the record, this Court ordered Ms. Abeyta to show cause why her appeal should not be dismissed for failure to file a timely notice of appeal. Ms. Abeyta failed to respond.

The thirty-day time limit for filing a notice of appeal is mandatory and jurisdictional. *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004); *Binkley v. Medling*, 117 S.W.3d 252, 255 (Tenn. 2003). This Court can neither waive nor extend the time period. Tenn. R. App. P. 2 and 21(b); *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d 856, 868 at n.1 (Tenn. Ct. App. 2008); *Jefferson v. Pneumo Servs. Corp.*, 699 S.W.2d 181, 184 (Tenn. Ct. App. 1985). The failure to file a timely notice of appeal deprives this Court of jurisdiction to hear the matter. *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d at 869 at n.1.

The appeal is dismissed for failure to file a timely notice of appeal. The case is remanded to the trial court for further proceedings consistent with this opinion. Jessica Abeyta is taxed with the costs for which execution may issue.

PER CURIAM